

## **Title 20**

### **DEVELOPMENT CODE**

#### **Division I. Unified Development Code**

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## Chapter 20.20

### Definitions\*

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\*Code reviser's note: Ordinance 238 provided all of the definitions initially set out in this chapter. History notes following definitions indicate amending ordinances only.

#### **20.20.010 A definitions.**

##### Alteration

Any human induced change in an existing condition of a critical area or its buffer. Alterations include, but are not limited to grading, filling, channelizing, dredging, clearing (vegetation), construction, compaction, excavation, or any other activity that changes the character of the critical area.

##### Anadromous Fish

Fish that spawn and rear in freshwater and mature in the marine environment. While Pacific salmon die after their first spawning, adult char (bull trout) can live for many years, moving in and out of saltwater and spawning each year. The life history of Pacific salmon and char contains critical periods of time when these fish are more susceptible to environmental and physical damage than at other times. The life history of salmon, for example, contains the following stages: upstream migration of adults, spawning, inter-gravel incubation, rearing, smoltification (the time period needed for juveniles to adjust their body functions to live in the marine environment), downstream migration, and ocean rearing to adults.

##### Aquifer

A geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

##### Aquifer Recharge Areas

A geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

#### **20.20.012 B definitions.**

##### Best Available Science

Current scientific information used in the

		process to designate, protect, mitigate impacts to, or restore critical areas, that is derived from a valid scientific process as defined by WAC 365-196-900 through 925.
	Bond	A financial guarantee in the form of a surety bond, cash deposit, escrow account assignment of savings, irrevocable letter of credit or other means acceptable to, or required by, the Director to guarantee work is in compliance with all applicable requirements.
	Buffer	A designated area contiguous to and protects a critical area which is required for the continued maintenance, functioning and/or structural stability of a critical area.
<b>20.20.014</b>	<b>C definitions.</b>	
	Certified Arborist	A person or firm with specialized knowledge of the horticultural requirements of trees, certified by the International Society of Arboriculture or by the American Society of Consulting Arborists as a registered consulting arborist.
	Compensatory Mitigation	Replacing project-induced losses or impacts to a critical area, and includes but is not limited to creation, restoration, re-establishment, enhancement, and preservation. The term mitigation is often used to refer to compensation, which is just one part of the overall mitigation sequence. See <i>mitigation</i> .
	Conservation Easement	A legal agreement that the property owner enters into to restrict uses of the land. Such restrictions can include, but are not limited to, passive recreation uses such as trails or scientific uses and fences or other barriers to protect habitat. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property, therefore, providing permanent or long-term protection.
	Critical Areas	<p>An area or ecosystem with one or more of the following environmental characteristics:</p> <p>A. Geologic hazard areas, included but not limited to:</p> <ol style="list-style-type: none"><li>1. Landslide hazard areas,</li><li>2. Seismic hazard areas, and</li><li>3. Erosion hazard areas;</li></ol> <p>B. Fish and wildlife habitat conservation areas;</p> <p>C. Wetlands;</p> <p>D. Flood hazard areas; and</p> <p>E. Aquifer recharge areas.</p> <p>(Ord. 398 § 1, 2006; Ord. 352 § 1, 2004).</p>

**20.20.018 E definitions.**

Engineering Geologist	A person licensed by the State of Washington as a professional geologist with an engineering geologist endorsement who specializes in evaluating geologic site characteristics to determine the response of geologic processes and materials to development activities, such as removal of vegetation, site grading, buildings, and civil works.
Enhancement	An action which increases the functions and values of a stream, wetland or other critical area or buffer so the functions and values they provide are of a higher quality.
Excessive Pruning	Pruning more than 25 percent of the tree canopy in one growing season or over a five year period, unless necessary to restore the vigor of the tree or to protect life and property.
<b>20.20.020 F definitions.</b>	
Fish and Wildlife Habitat Conservation Areas	Areas, as designated by SMC 20.80.270, necessary to maintain populations of species in suitable habitats within their natural geographic distribution so that the habitat available is sufficient to support viable populations over the long term and isolated subpopulations are not created.
Fish Habitat	Habitat that is used by fish at any life stage at any time of the year, including potential habitat likely to be used by fish that could be recovered by restoration or management and includes off-channel habitat.
Functions and Values	The beneficial roles served by critical areas and their buffers including, but not limited to, water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage, conveyance, and attenuation; ground water recharge and discharge; erosion control; wave attenuation; protection from hazards; historical, archaeological, and aesthetic value protection; educational opportunities; and recreation. These beneficial roles are not listed in order of priority. Critical area functions and values can be used to help set targets (species composition, structure, etc.) for mitigation sites.
<b>20.20.022 G definitions.</b>	
Geologic Hazard Areas	Critical areas which are susceptible to erosion, land sliding, seismic, or other geological events as designated by SMC 20.80.210. These areas may not be suited for any development activities, because they may pose a threat to public health and safety, or environmental standards.
Geologist	A person trained in geological sciences and licensed by the State of Washington as a professional geologist.
<b>20.20.024 H definitions.</b>	
Habitat Conservation Areas	Areas designated as fish and wildlife habitat conservation areas.

	Habitats of Local Importance	Areas identified as important by the City and designated as fish and wildlife habitat conservation areas that include a seasonal range or habitat element with which a given species has a primary association, and which, if altered may reduce the likelihood that the species will maintain and reproduce over the long-term..
	Hand-held Equipment	Equipment, such as shovels or chainsaws that are compact enough to be used or operated while being held in the hand or hands. Does not include equipment operated on the ground by pushing or self-propulsion such as lawn mowers or rototillers.
	Hazardous Substance	Any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical, or biological properties described in WAC 173-303-090 or 173-303-100.
20.20.026	<b>I definitions.</b> Invasive Species	Any nonnative organisms that cause economic or environmental harm and are capable of spreading to new areas of the state. Invasive species do not include domestic livestock, intentionally planted agronomic crops, or nonharmful exotic organisms. Invasive species include but are not limited to noxious weeds.
20.20.032	<b>L definitions.</b> Lands Covered by Water	All lands underlying the water areas of the state below the ordinary high water mark, including salt waters, tidal waters, estuarine waters, natural water courses, lakes, ponds, artificially impounded waters, and wetlands consistent with WAC 197-11-756.
20.20.034	<b>M definitions.</b> Marine Environment/Marine Waters  Mitigation	<p>Aquatic lands and waters under tidal influence, including saltwaters and estuaries to the ordinary high water mark.</p> <p>Avoiding, minimizing, or compensating for adverse impacts, including use of any or all of the following actions listed in descending order of preference:</p> <p>A. Avoiding the impact by not taking a certain action or parts of an action;</p> <p>B. Minimizing the impact by limiting the degree or magnitude of the action and its implementation, by using appropriate technology or by taking affirmative steps to avoid or reduce the impact;</p> <p>C. Rectifying the impact by repairing, rehabilitating or restoring the affected critical area or buffer to the conditions existing at the time of initiation of the project;</p> <p>D. Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through biological, engineered, or other methods;</p> <p>E. Reducing or eliminating the impact or</p>

hazard over time by preservation or maintenance operations during the life of the development proposal;

F. Compensating for the impact by replacing, enhancing or providing substitute critical areas and environments; and

G. Monitoring the hazard or required mitigation and taking appropriate corrective measures when necessary.

Mitigation for individual actions may include a combination of the above measures.

**20.20.036 N definitions.**

Native Growth Protection Area (NGPA)

A tract or easement recorded with an approved subdivision or easement, established for the purposes of protecting vegetation, providing open space, maintaining wildlife corridors, maintaining slope stability, controlling runoff and erosion, and/or any other purpose designated in the development approval.

Native Vegetation, Native Plant(s)

Vegetation comprised of plant species, other than noxious weeds, that are indigenous to the coastal region of the Pacific Northwest, which reasonably could have been expected to naturally occur on the site.

**20.20.040 P definitions.**

Practical Alternative

An alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and has less adverse impacts to critical areas.

Priority Habitat

Habitat type or elements with unique or significant value to one or more species as classified by the state Department of Fish and Wildlife. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element.

Protected Tree/Protected Vegetation

A tree or area of understory vegetation identified on an approved tree protection and replacement plan (or other plan determined to be acceptable by the Director) to be retained and protected during construction and/or permanently protected by easement, tract, or covenant restriction. A protected tree may be located outside or within a NGPA, critical area or critical area buffer.

**20.20.042 Q definitions.**

Qualified Professional

A person with experience, training and competence in the pertinent discipline. A qualified professional must be licensed to practice in the State of Washington in the related professional field, if such field is licensed. If not licensed, a qualified professional must have a national certification in the pertinent field. If national certification in the field does not exist, the minimum qualification should be a bachelor's degree with 10 years of related professional work, or master's degree in the

field and three years of related professional work. Minimum qualifications for specific fields of practice shall include but not be limited to the following:

A. Arborists must be certified arborists as defined in SMC 20.20.014 and have a valid ISA Tree Risk Assessment Qualification (TRAQ).

B. Professionals for geologic hazard areas must be licensed and endorsed in the State of Washington as a geotechnical engineer or engineering geologist as defined in SMC 20.20.018 and 20.20.022.

C. Professionals for streams and other fish and wildlife habitat must have a degree in biology, environmental planning, natural science, stream ecology or related field and the minimum years of experience, listed above, related to the subject habitat or species.

D. Professionals for vegetation restoration planning where specific expertise for wetlands, streams or other fish and wildlife habitat is not required, must have a degree in botany, environmental planning, natural science, ecology, landscape architecture or a related field and the minimum years of experience, listed above, with an emphasis on restoration ecology and vegetation management associated with critical areas and buffers. Professionals must demonstrate a minimum of three years of experience with the type of critical area or buffer for which the critical area report is being submitted.

E. Professionals for wetlands must be currently certified as a Professional Wetland Scientist (PWS) with the Society of Wetland Scientists or meet the minimum education and years of experience, listed above, as a wetlands professional.

F. Minimum qualifications of professionals for other disciplines shall be determined by the Director consistent with the minimum qualifications defined above and specific to the discipline identified. (Ord. 324 § 1, 2003).

**20.20.044 R definitions.**

Remediation

To restore a site to a condition that complies with critical area or other regulatory requirements as they existed when the violation occurred; or, for sites that have been degraded under prior ownerships, restore to a condition which does not pose a probable threat to the environment or to the public health, safety, or welfare. Remediation does not mandate a return to pre-development conditions in critical areas.

Restoration

Measures taken to restore an altered or damaged critical area or any associated buffer to a state in which its stability and functions

		<p>approach its unaltered state as closely as possible, including:</p> <ul style="list-style-type: none"><li>A. Active steps taken to restore damaged critical areas or their buffers to the functioning condition that existed prior to an unauthorized alteration; and</li><li>B. Actions performed to reestablished structural and functional characteristics of the critical area that have been lost by alteration, past management activities, or catastrophic events.</li></ul>
Riparian Habitat		<p>Areas adjacent to aquatic systems with flowing water that contain elements of both aquatic and terrestrial ecosystems that mutually influence each other. The width of these areas extends to that portion of the terrestrial landscape that directly influences the aquatic ecosystem by providing shade, fine or large woody material, nutrients, organic and inorganic debris, terrestrial insects, or habitat for riparian-associated wildlife. Widths shall be measured from the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified. It includes the entire extent of the floodplain and the extent of vegetation adapted to wet conditions as well as adjacent upland plant communities that directly influence the stream system. Riparian habitat areas include those riparian areas severely altered or damaged due to human development activities.</p>
<b>20.20.046</b>	<b>S definitions.</b>	
	Salmonid	<p>A member of the fish family salmonidae, including:</p> <ul style="list-style-type: none"><li>A. Chinook, coho, chum, sockeye and pink salmon;</li><li>B. Rainbow, steelhead and cutthroat trout or salmon;</li><li>C. Brown trout;</li><li>D. Brook and dolly varden trout or char;</li><li>E. Kokanee; and</li><li>F. Whitefish.</li></ul>
	Site Development Permit	<p>A permit, issued by the City, to develop, redevelop or partially develop a site exclusive of any required building or land use permit. A site development permit may include one or more of the following activities: paving, grading, clearing, tree removal, on-site utility installation, stormwater facilities, walkways, striping, wheelstops or curbing for parking and circulation, landscaping, critical area and buffer mitigation, enhancement, remediation, or restoration. (Ord. 439 § 1, 2006; Ord. 352 § 1, 2004).</p>
	Site Plan	<p>The development plan for one or more lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, flood plains, wetlands,</p>



		<p>waterways, critical areas and critical area buffers; landscaping and open spaces; walkways; means of ingress and egress; circulation; utility services; structures and buildings; signs and lighting; berms, buffers, and screening devices; surrounding development; and any other information that reasonably may be required in order that an informed decision can be made by the approving authority.</p>
	Streams	<p>Those areas where surface waters produce a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices or other entirely artificial watercourses, unless they are used by fish or are used to convey streams naturally occurring prior to construction. A channel or bed need not contain water year-round; provided, that there is evidence of at least intermittent flow during years of normal rainfall. (Ord. 398 § 1, 2006).</p>
<b>20.20.054</b>	<b>W definitions.</b>	
	Wetland Creation	<p>The manipulation of the physical, chemical, or biological characteristics to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Creation results in a gain in wetland acreage and function. A typical action is the excavation of upland soils to elevations that will produce a wetland hydroperiod and hydric soils, and support the growth of hydrophytic plant species.</p>
	Wetland Delineation	<p>A technical procedure performed by a qualified professional with expertise in wetlands to determine the area of a wetland, ascertaining the wetland's classification, function, and value, and to define the boundary between a wetland and adjacent uplands.</p>
	Wetland Edge	<p>The line delineating the outer edge of a wetland established based on the definitions and methods contained in Title 20.80.</p>
	Wetland Enhancement	<p>The manipulation of the physical, chemical, or biological characteristics of a wetland to heighten, intensify, or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in wetland function(s) and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Examples are planting vegetation, controlling non-native or invasive species, and modifying site elevations to alter hydroperiods.</p>
	Wetland Re-establishment	<p>The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Re-establishment results in rebuilding a former wetland and results in a gain in wetland acres and functions. Activities could include removing fill, plugging ditches, or breaking drain tiles.</p>

Wetland Rehabilitation	The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or returning tidal influence to a wetland.
Wetlands	Those areas that are inundated or saturated by ground or surface water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.
Wetland Scientist	A scientist, including but not limited to ecologists, hydrologists, and soil scientists, who study the physical and biological characteristics of wetlands and their functions.

## **Chapter 20.30**

### **Procedures and Administration**

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### **Subchapter 3.**

#### **Permit Review Procedures**

##### **20.30.080 Preapplication meeting.**

A preapplication meeting is required prior to submitting an application for any Type B or Type C action and/or for an application for a project that may impact a critical area or its buffer consistent with SMC 20.80.045.

Applicants for development permits under Type A actions are encouraged to participate in preapplication meetings with the City. Preapplication meetings with staff provide an opportunity to discuss the proposal in general terms, identify the applicable City requirements and the project review process including the permits required by the action, timing of the permits and the approval process.

Preapplication meetings are required prior to the neighborhood meeting.

The Director shall specify submittal requirements for preapplication meetings, which shall include a critical areas worksheet and, if available, preliminary critical area reports. Plans presented at the preapplication meeting are nonbinding and do not “vest” an application. (Ord. 439 § 1, 2006; Ord. 324 § 1, 2003; Ord. 238 Ch. III § 4(a), 2000).

## Subchapter 5.

### Nonconforming Uses, Lots, and Structures

#### 20.30.280 Nonconformance.

- A. Any use, structure, lot or other site improvement (e.g., landscaping or signage), which was legally established prior to the effective date of a land use regulation that rendered it nonconforming, shall be considered nonconforming if:
1. The use is now prohibited or cannot meet use limitations applicable to the zone in which it is located; or
  2. The use or structure does not comply with the development standards or other requirements of this code;
  3. A change in the required permit review process shall not create a nonconformance.
- B. **Abatement of Illegal Use, Structure or Development.** Any use, structure, lot or other site improvement not established in compliance with use, lot size, building, and development standards in effect at the time of establishment shall be deemed illegal and shall be discontinued or terminated and subject to removal.
- C. **Continuation and Maintenance of Nonconformance.** A nonconformance may be continued or physically maintained as provided by this code.
1. Any nonconformance that is brought into conformance for any period of time shall forfeit status as a nonconformance.
  2. **Discontinuation of Nonconforming Use.** A nonconforming use shall not be resumed when abandonment or discontinuance extends for 12 consecutive months.
  3. **Repair or Reconstruction of Nonconforming Structure.** Any structure nonconforming as to height or setback standards may be repaired or reconstructed; provided, that:
    - a. The extent of the previously existing nonconformance is not increased;
    - b. The building permit application for repair or reconstruction is submitted within 12 months of the occurrence of damage or destruction; and
    - c. The provisions of Chapter 13.12 SMC, Floodplain Management, are met when applicable.
  4. **Modifications to Nonconforming Structures.** Modifications to a nonconforming structure may be permitted; provided, the modification does not increase the area, height or degree of an existing nonconformity. Single-family additions shall be limited to 50 percent of the use area or 1,000 square feet, whichever is lesser, and shall not require a conditional use permit in the MUR-45' and MUR-70' zones. Modification of structures that are nonconforming with regards to critical areas may only be permitted consistent with SMC 20.80.040.
- D. **Expansion of Nonconforming Use.** A nonconforming use may be expanded subject to approval of a conditional use permit unless the indexed supplemental criteria (SMC 20.40.200) require a special use permit for expansion of the use under the code. A nonconformance with the development standards shall not be created or increased and the total expansion shall not exceed 10 percent of the use area.
- E. **Nonconforming Lots.** Any permitted use may be established on an undersized lot, which cannot satisfy the lot size or width requirements of this code; provided, that:
1. All other applicable standards of the code are met; or a variance has been granted;
  2. The lot was legally created and satisfied the lot size and width requirements applicable at the time of

creation;

3. The lot cannot be combined with contiguous undeveloped lots to create a lot of required size;
4. No unsafe condition is created by permitting development on the nonconforming lot; and
5. The lot was not created as a “special tract” to protect critical area, provide open space, or as a public or private access tract.

## **Subchapter 6.**

### **Review and/or Decision Criteria**

#### **20.30.290 Deviation from the engineering standards (Type A action).**

**B. Decision Criteria.** The Director shall grant an engineering standards deviation only if the applicant demonstrates all of the following:

1. The granting of such deviation will not be materially detrimental to the public welfare or injurious or create adverse impacts to the property or other property(s) and improvements in the vicinity and in the zone in which the subject property is situated;
2. The authorization of such deviation will not adversely affect the implementation of the Comprehensive Plan adopted in accordance with State law;
3. The deviation is not in conflict with the standards of the critical areas regulations, Chapter 20.80 SMC, Critical Areas, or Shoreline Master Program, SMC Title 20, Division II;
4. A deviation from engineering standards shall only be granted if the proposal meets the following criteria:
  - a. Conform to the intent and purpose of the Code;
  - b. Produce a compensating or comparable result which is in the public interest; and
  - c. Meet the objectives of safety, function and maintainability based upon sound engineering judgement;
5. Deviations from road standards must meet the objectives for fire protection. Any deviation from road standards, which does not meet the International Fire Code, shall also require concurrence by the Fire Marshal;
6. Deviations from drainage standards contained in the Stormwater Manual and Chapter 13.10 SMC must meet the objectives for appearance and environmental protection;
7. Deviations from drainage standards contained in the Stormwater Manual and Chapter 13.10 SMC must be shown to be justified and required for the use and situation intended;
8. Deviations from drainage standards for facilities that request use of emerging technologies, an experimental water quality facility or flow control facilities must meet these additional criteria:
  - a. The new design is likely to meet the identified target pollutant removal goal or flow control performance based on limited data and theoretical consideration;
  - b. Construction of the facility can, in practice, be successfully carried out; and
  - c. Maintenance considerations are included in the design, and costs are not excessive or are borne and reliably performed by the applicant or property owner;
9. Deviations from utility standards shall only be granted if following facts and conditions exist:
  - a. The deviation shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and in the zone in which the property on behalf of which the application was filed is located;
  - b. The deviation is necessary because of special circumstances relating to the size, shape, topography, location or surrounding of the subject property in order to provide it with use rights and privileges

permitted to other properties in the vicinity and in the zone in which the subject property is located;  
and

- c. The granting of such deviation is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same zone or vicinity. (Ord. 531 § 1 (Exh. 1), 2009; Ord. 406 § 1, 2006; Ord. 238 Ch. III § 7(a), 2000).

**20.30.295 Temporary use.**

B. The Director may approve or modify and approve an application for a temporary use permit if:

1. The temporary use will not be materially detrimental to public health, safety, or welfare, nor injurious to property and improvements in the immediate vicinity of the subject temporary use;
2. The temporary use is not incompatible in intensity and appearance with existing land uses in the immediate vicinity of the temporary use;
3. Adequate parking is provided for the temporary use and, if applicable, the temporary use does not create a parking shortage for the existing uses on the site;
4. Hours of operation of the temporary use are specified;
5. The temporary use will not create noise, light, or glare which would adversely impact surrounding uses and properties: and
6. The temporary use is not in conflict with the standards of the critical areas regulations, Chapter 20.80 SMC, Critical Areas, and is located outside the shoreline jurisdiction regulated by the Shoreline Master Program, SMC Title 20, Division II.

**20.30.310 Zoning variance (Type B action).**

B. **Decision Criteria.** A variance shall be granted by the City, only if the applicant demonstrates all of the following:

1. The variance is necessary because of the unique size, shape, topography, or location of the subject property;
2. The strict enforcement of the provisions of this title creates an unnecessary hardship to the property owner;
3. The subject property is deprived, by provisions of this title, of rights and privileges enjoyed by other properties in the vicinity and under an identical zone;
4. The need for the variance is not the result of deliberate actions of the applicant or property owner, including any past owner of the same property;
5. The variance is compatible with the Comprehensive Plan;
6. The variance does not create a health or safety hazard;
7. The granting of the variance will not be materially detrimental to the public welfare or injurious to:
  - a. The property or improvements in the vicinity, or
  - b. The zone in which the subject property is located;
8. The variance does not relieve an applicant from:



- a. Any of the procedural or administrative provisions of this title, or
  - b. Any standard or provision that specifically states that no variance from such standard or provision is permitted, or
  - c. Use or building restrictions, or
  - d. Any provisions of the critical areas regulations, Chapter 20.80 SMC, Critical Areas, or Shoreline Master Program, SMC Title 20, Division II;
9. The variance from setback or height requirements does not infringe upon or interfere with easement or covenant rights or responsibilities;
  10. The variance does not allow the establishment of a use that is not otherwise permitted in the zone in which the proposal is located; or
  11. The variance is the minimum necessary to grant relief to the applicant. (Ord. 324 § 1, 2003; Ord. 238 Ch. III § 7(c), 2000).

**20.30.330 Special use permit-SUP (Type C action).**

**B. Decision Criteria.** A special use permit shall be granted by the City, only if the applicant demonstrates that:

1. The use will provide a public benefit or satisfy a public need of the neighborhood, district or City;
2. The characteristics of the special use will be compatible with the types of uses permitted in surrounding areas;
3. The special use will not materially endanger the health, safety and welfare of the community;
4. The proposed location shall not result in either the detrimental over-concentration of a particular use within the City or within the immediate area of the proposed use, unless the proposed use is deemed a public necessity;
5. The special use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood;
6. The special use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts;
7. The location, size and height of buildings, structures, walls and fences, and screening vegetation for the special use shall not hinder or discourage the appropriate development or use of neighboring properties;
8. The special use is not in conflict with the policies of the Comprehensive Plan or the basic purposes of this title; and
9. The special use is not in conflict with the standards of the critical areas regulations, Chapter 20.80 SMC, Critical Areas, or Shoreline Master Program, SMC Title 20, Division II. (Ord. 238 Ch. III § 7(e), 2000).

**20.30.333 Critical area special use permit (Type C action).**

- A. Purpose.** The purpose of the critical areas special use permit is to allow development by a public agency or public utility when the strict application of the critical areas standards would otherwise unreasonably prohibit the provision of public services. This type of permit does not apply to flood hazard areas or within the shoreline jurisdiction.
- B. Decision Criteria.** A critical areas special use permit shall be granted by the City only if the utility or public

agency applicant demonstrates that:

1. The application of the critical areas-regulations, Chapter 20.80 SMC, Critical Areas, would unreasonably restrict the ability of the public agency or utility to provide services to the public;
  2. There is no other practical alternative to the proposal by the public agency or utility which would cause less impact on the critical area;
  3. The proposed development does not create a health or safety hazard on or off the development site, will not be materially detrimental to the property or improvements in the vicinity;
  4. This special use permit process shall not allow the use of the following critical areas for regional retention/detention facilities except where the Hearing Examiner makes a finding that the facility is necessary to protect public health and safety or repair damaged natural resources:
    - a. Type S or Type F-anadromous streams or buffers;
    - b. Category I wetlands or buffers with plant associations of infrequent occurrence; or
    - c. Category I or II wetlands or buffers which provide critical or outstanding habitat for herons, raptors or State or Federal designated endangered or threatened species unless clearly demonstrated by the applicant, using best available science, that there will be no impact on such habitat;
  5. Any alterations permitted to the critical area are mitigated in accordance with SMC 20.80.082 and relevant mitigation standards for the impacted critical area(s);
  6. Consistent with SMC 20.80.050 Alteration of critical areas the proposal attempts to protect the existing critical area functions and values consistent with the best available science and attempts to mitigate adversely impacted critical area functions and values to the fullest extent possible; and
  7. The proposal is consistent with other applicable regulations and standards.
- C. **Permit Conditions.** The Director may condition the proposed activity as necessary to mitigate the impacts to critical areas and to conform to the standards required by Chapter 20.80 SMC, Critical Areas. (Ord. 641 § 4 (Exh. A), 2012; Ord. 324 § 1, 2003; Ord. 238 Ch. VIII § 1(I), 2000. Formerly 20.80.090.).

**20.30.336 Critical areas reasonable use permit (Type C action).**

- A. **Purpose.** The purpose of the critical areas reasonable use permit is to allow development and use of private property when the strict application of the critical area regulations would otherwise deny all reasonable use of a property. This type of permit does not apply to flood hazard areas or within the shoreline jurisdiction.
- B. **Decision Criteria.** A reasonable use permit shall be granted by the City only if the applicant demonstrates that:
1. The application of the critical area regulations, Chapter 20.80 SMC, Critical Areas, would deny all reasonable use of the property; and
  2. There is no other reasonable use of the property with less impact on the critical area; and
  3. Any alterations to the critical area would be the minimum necessary to allow for reasonable use of the property; and
  4. The proposed development does not create a health or safety hazard on or off the development site, will not be materially detrimental to the property or improvements in the vicinity, is consistent with the general purposes of this title and the public interest, and all reasonable mitigation measures have been implemented or assured; and

5. The inability to derive reasonable economic use is not the result of the applicant's action unless the action 1) was approved as part of a final land use decision by the City or other agency with jurisdiction; or 2) otherwise resulted in a nonconforming use, lot or structure as defined in this title;
  6. Any alterations permitted to the critical area are mitigated in accordance with SMC 20.80.082 and relevant mitigation standards for the impacted critical area(s);
  7. Consistent with SMC 20.80.050 Alteration of critical areas the proposal attempts to protect the existing critical area functions and values consistent with the best available science and attempts to mitigate adversely impacted critical area functions and values to the fullest extent possible; and
  8. The proposal is consistent with other applicable regulations and standards.
- C. **Development Standards.** To allow for reasonable use of property and to minimize impacts on critical areas the decision making authority may reduce setbacks by up to 50 percent, parking requirements by up to 50 percent, and may eliminate landscaping requirements. Such reductions shall be the minimum amount necessary to allow for reasonable use of the property, considering the character and scale of neighboring development.
- D. **Priority.** When multiple critical areas and critical area buffers may be affected by the application, the decision making authority should consider exceptions to critical areas regulations that occur in the following order of priority with number 4 having the highest protection:
1. Geologic hazard area buffers;
  2. Wetland buffers;
  3. Fish and wildlife habitat conservation area buffers (excluding wetlands); and
  4. Geologic hazard areas, wetlands, and fish and wildlife habitat conservation critical areas protection standards in the order listed above in items 1 through 3. (Ord. 641 § 4 (Exh. A), 2012; Ord. 352 § 1, 2004; Ord. 324 § 1, 2003; Ord. 238 Ch. VIII § 1(L), 2000. Formerly 20.80.120.).

#### **20.30.353 Master development plan.**

- B. **Decision Criteria.** A master development plan shall be granted by the City only if the applicant demonstrates that:
1. The project is designated as either campus or essential public facility in the Comprehensive Plan and Development Code and is consistent with goals and policies of the Comprehensive Plan.
  2. The master development plan includes a general phasing timeline of development and associated mitigation.
  3. The master development plan meets or exceeds the current critical areas regulations, Chapter 20.80 SMC, Critical Areas, or Shoreline Master Program, SMC Title 20, Division II, if critical areas or their buffers are present or project is within the shoreline jurisdiction.
  4. The proposed development uses innovative, aesthetic, energy efficient and environmentally sustainable architecture and site design (including low impact development stormwater systems and substantial tree retention) to mitigate impacts to the surrounding neighborhoods.
  5. There is either sufficient capacity and infrastructure (e.g., roads, sidewalks, bike lanes) in the transportation system (motorized and nonmotorized) to safely support the development proposed in all future phases or there will be adequate capacity and infrastructure by the time each phase of development is completed. If capacity or infrastructure must be increased to support the proposed master development plan, then the applicant must identify a plan for funding their proportionate share of the improvements.

6. There is either sufficient capacity within public services such as water, sewer and stormwater to adequately serve the development proposal in all future phases, or there will be adequate capacity available by the time each phase of development is completed. If capacity must be increased to support the proposed master development plan, then the applicant must identify a plan for funding their proportionate share of the improvements.
  7. The master development plan proposal contains architectural design (including but not limited to building setbacks, insets, facade breaks, roofline variations) and site design standards, landscaping, provisions for open space and/or recreation areas, retention of significant trees, parking/traffic management and multimodal transportation standards that minimize conflicts and create transitions between the proposal site and adjacent neighborhoods and between institutional uses and residential uses.
  8. The applicant shall demonstrate that proposed industrial, commercial or laboratory uses will be safe for the surrounding neighborhood and for other uses on the campus.
- C. **Amendments.** Minor amendments to an approved master development plan may be approved by the Director if the amendment meets the development standards and criteria applicable to the zoning and requirements set forth in this section. Minor amendments include any revision or modification of the previously approved master development plan that would result in any one or more of the following:
1. An increase in the square footage of any proposed building or structure by 10 percent or less; or
  2. A change of 15 percent or less in the number of new parking spaces, parking spaces created by restriping existing parking areas and/or a combination of both except for an increase in parking spaces for bicycles or electric vehicles; or
  3. A change in the original phasing timeline for mitigation of the master development plan; or
  4. Changes to building placement when located outside of the required setbacks and any required buffers for critical areas; or
  5. A cumulative increase in impervious surface of 10 percent or less or a cumulative decrease in tree cover of 10 percent or less; or
  6. Other specific changes as noted in the master development plan.

Major amendments are changes that exceed the thresholds for a minor amendment or were not analyzed as part of an approved master development plan. Major amendments to an approved master development plan shall be processed as a new master development plan.

- F. **Early Community Input.** Applicants are encouraged to develop a community and stakeholders consensus-based master development plan. Community input is required to include soliciting input from stakeholders, community members and any other interested parties with bubble diagrams, diagrammatic site plans, or conceptual site plans. The meeting notice shall be provided at a minimum to property owners located within 1,000 feet of the proposal, the neighborhood chair as identified by the Shoreline Office of Neighborhoods (note: if a proposed development is within 1,000 feet of adjacent neighborhoods, those chairs shall also be notified), and to the City of Shoreline Planning & Community Development Department. Digital audio recording, video recording, or a court reporter transcription of this meeting or meetings is required at the time of application. The applicant shall provide an explanation of the comments of these entities to the City regarding the incorporation (or not) of these comments into the design and development of the proposal.

#### **20.30.355 Development agreement (Type L).**

- C. **Decision Criteria.** A development agreement (general development agreement and development agreements in order to increase height above 70 feet) may be granted by the City only if the applicant demonstrates that:
1. The project is consistent with goals and policies of the Comprehensive Plan. If the project is located within

a subarea plan, then the project shall be consistent with the goals and policies of the subarea plan.

2. The proposed development uses innovative, aesthetic, energy efficient and environmentally sustainable architecture and site design.
3. There is either sufficient capacity and infrastructure (e.g., roads, sidewalks, bike lanes) in the transportation system (motorized and nonmotorized) to safely support the development proposed in all future phases or there will be adequate capacity and infrastructure by the time each phase of development is completed. If capacity or infrastructure must be increased to support the proposed development agreement, then the applicant must identify a plan for funding their proportionate share of the improvements.
4. There is either sufficient capacity within public services such as water, sewer and stormwater to adequately serve the development proposal in all future phases, or there will be adequate capacity available by the time each phase of development is completed. If capacity must be increased to support the proposed development agreement, then the applicant must identify a plan for funding their proportionate share of the improvements.
5. The development agreement proposal contains architectural design (including but not limited to building setbacks, insets, facade breaks, roofline variations) and site design standards, landscaping, provisions for open space and/or recreation areas, retention of significant trees, parking/traffic management and multimodal transportation improvements and other features that minimize conflicts and create transitions between the proposal site and property zoned R-4, R-6, R-8 or MUR-35'.
6. The project is consistent with the standards of the critical areas regulations, Chapter 20.80 SMC, Critical Areas, or Shoreline Master Program, SMC Title 20, Division II.

## **Subchapter 7.**

### **Subdivisions**

#### **20.30.370 Purpose.**

Subdivision is a mechanism by which to divide land into lots, parcels, sites, plots, or tracts, for the purpose of sale. The purposes of subdivision regulations are:

- A. To regulate division of land into two or more lots or tracts;
- B. To protect the public health, safety and general welfare in accordance with the State standards;
- C. To promote effective use of land;
- D. To promote safe and convenient travel by the public on streets and highways;
- E. To provide for adequate light and air;
- F. To facilitate adequate provision for water, sewerage, stormwater drainage, parks and recreation areas, sites for schools and school grounds and other public requirements;
- G. To provide for proper ingress and egress;
- H. To provide for the expeditious review and approval of proposed subdivisions which conform to development standards and the Comprehensive Plan;
- I. To adequately provide for the housing and commercial needs of the community;
- J. To protect environmentally critical areas and their buffers as designated by Chapter 20.80 SMC, Critical Areas, or Shoreline Master Program, SMC Title 20, Division II;
- K. To require uniform monumenting of land subdivisions and conveyance by accurate legal description. (Ord. 695 § 1 (Exh. A), 2014; Ord. 238 Ch. III § 8(b), 2000).

#### **20.30.410 Preliminary subdivision review procedures and criteria.**

The short subdivision may be referred to as a short plat – Type B action.

The formal subdivision may be referred to as long plat – Type C action.

Time limit: A final short plat or final long plat meeting all of the requirements of this chapter and Chapter 58.17 RCW shall be submitted for approval within the time frame specified in RCW 58.17.140.

Review criteria: The following criteria shall be used to review proposed subdivisions:

#### **A. Environmental.**

- 1. Where environmental resources exist, such as trees, streams, geologic hazards, or wildlife habitats, the proposal shall be designed to fully implement the goals, policies, procedures and standards of the critical areas regulations, Chapter 20.80 SMC, Critical Areas, and the tree conservation, land clearing, and site grading standards sections.
- 2. The proposal shall be designed to minimize grading by using shared driveways and by relating street, house site and lot placement to the existing topography.
- 3. Where conditions exist which could be hazardous to the future residents of the land to be divided, or to nearby residents or property, such as floodplains, landslide hazards, or unstable soil or geologic conditions,

a subdivision of the hazardous land shall be denied unless the condition can be permanently corrected, consistent with subsections (A)(1) and (2) of this section, Chapter 20.80 SMC Critical Areas, and Chapter 13.12 SMC, Floodplain Management.

## **Subchapter 9.**

### **Code Enforcement**

#### **20.30.730 General provisions.**

- A. For the purposes of this subchapter, any person who causes or maintains a code violation and the owner, lessor, tenant or other person entitled to control, use, or occupancy of property where a code violation occurs shall be identified as the responsible party and shall be subject to enforcement action as provided in this subchapter.

However, if a property owner affirmatively demonstrates that the action which resulted in the violation was taken without the owner's knowledge or consent by someone other than the owner or someone acting on the owner's behalf, that owner shall be responsible only for bringing the property into compliance to the extent reasonably feasible under the circumstances, as determined by the Director. Should the responsible party not correct the violation, after service of the notice and order, civil penalties and abatement costs may be assessed.

- B. It shall be the responsibility of any person identified as a responsible party to bring the property into a safe and reasonable condition to achieve compliance. Payment of fines, applications for permits, acknowledgment of stop work orders and compliance with other remedies does not substitute for performing the corrective work required and having the property brought into compliance to the extent reasonably possible under the circumstances. The date set for compliance in the notice and order takes precedence over any date established for the expiration of any required permit(s) and will be subordinate only to written extension of the notice and order.
- C. The responsible parties have a duty to notify the Director of any actions taken to achieve compliance. A violation shall be considered ongoing until the responsible party has come into compliance and has notified the Director of this compliance, and an official inspection has verified compliance and all assessed penalties and costs have been paid to the City.
- D. The procedures set forth in this subchapter are not exclusive, specifically the provisions in SMC 20.80.130 apply to code enforcement of violations of Chapter 20.80 SMC, Critical Areas. These procedures shall not in any manner limit or restrict the City from remedying or abating code violations in any other manner authorized by law. (Ord. 669 § 1 (Exh. A), 2013; Ord. 515 § 1, 2008; Ord. 406 § 1, 2006; Ord. 391 § 4, 2005; Ord. 238 Ch. III § 10(b), 2000).

#### **20.30.770 Enforcement provisions.**

- A. **Infraction.** Whenever the Director has determined that a code violation has occurred, the Director may issue a Class 1 civil infraction, or other class of infraction specified in the particular ordinance violated, to any responsible party, according to the provisions set forth in Chapter 7.80 RCW.
- B. **Misdemeanor.** Any person who willfully or knowingly causes, aids or abets a code violation by any act of commission or omission is guilty of a misdemeanor. Upon conviction, the person shall be punished by a fine not to exceed \$1,000 and/or imprisonment in the County jail for a term not to exceed 90 days. Each week (seven days) such violation continues shall be considered a separate misdemeanor offense. A misdemeanor complaint or notice of infraction may be filed as an alternative, or in addition, to any other judicial or administrative remedy provided in this subchapter or by law or other regulation.
- C. **Suspension, Revocation or Limitation of Permit.**
1. The Director may suspend, revoke or limit any permit issued whenever:
    - a. The permit holder has committed a code violation in the course of performing activities subject to that permit;
    - b. The permit holder has interfered with the Director in the performance of his or her duties relating to that permit;



- c. The permit was issued in error or on the basis of materially incorrect information supplied to the City; or
  - d. Permit fees or costs were paid to the City by check and returned from a financial institution marked nonsufficient funds (NSF) or cancelled.
2. Such suspension, revocation or modification shall be carried out through the notice and order provisions of this subchapter and shall be effective upon the compliance date established by the notice and order. Such revocation, suspension or cancellation may be appealed to the Hearing Examiner using the appeal provisions of this subchapter. Notwithstanding any other provision of this subchapter, the Director may immediately suspend operations under any permit by issuing a stop work order.

**D. Civil Penalties.**

1. A civil penalty for violation of the terms and conditions of a notice and order shall be imposed in the amount of \$500.00. The total initial penalties assessed for notice and orders and stop work orders pursuant to this section shall apply for the first 14-day period following the violation of the order, if no appeal is filed. The penalties for the next 14-day period shall be 150 percent of the initial penalties, and the penalties for the next 14-day period and each such period or portion thereafter shall be double the amount of the initial penalties.
2. Any responsible party who has committed a violation of the provisions of Chapter 20.50 SMC, General Development Standards (tree conservation, land clearing and site grading standards), or Chapter 20.80 SMC, Critical Areas, will not only be required to restore unlawfully removed trees or damaged critical areas, insofar as that is possible and beneficial, as determined by the Director, but will also be required to pay civil penalties in addition to penalties under subsection (D)(1) of this section, for the redress of ecological, recreation, and economic values lost or damaged due to the violation. Civil penalties will be assessed according to the following factors:
  - a. For violations within critical areas and required buffers, an amount determined pursuant to SMC 20.80.130(E); or
  - b. For violations not located within critical areas and required buffers, an amount determined to be equivalent to the economic benefit that the responsible party derives from the violation measured as the total of:
    - i. The resulting increase in market value of the property; and
    - ii. The value received by the responsible party; and
    - iii. The savings of construction costs realized by the responsible party as a result of performing any act in violation of the chapter; and
  - c. A penalty of \$2,000 if the violation has severe ecological impacts, including temporary or permanent loss of resource values or functions.
3. An additional penalty of \$2,000 if the violation was deliberate, the result of knowingly false information submitted by the property owner, agent, or contractor, or the result of reckless disregard on the part of the property owner, agent, or their contractor. The property owner shall assume the burden of proof for demonstrating that the violation was not deliberate.
4. A repeat violation means a violation of the same regulation in any location within the City by the same responsible party, for which voluntary compliance previously has been sought or any enforcement action taken, within the immediate preceding 24-consecutive-month period, and will incur double the civil penalties set forth above.
5. Under RCW 59.18.085, if, after 60 days from the date that the City first advanced relocation assistance

funds to displaced tenants, the landlord does not repay the amount of relocation assistance advanced by the City, the City shall assess civil penalties in the amount of \$50.00 per day for each tenant to whom the City has advanced a relocation assistance payment.

6. The responsible parties have a duty to notify the Director of any actions taken to achieve compliance with the notice and order. For purposes of assessing civil penalties, a violation shall be considered ongoing until the responsible party has come into compliance with the notice and order and has notified the Director of this compliance, and an official inspection has verified compliance and all assessed penalties and costs have been paid to the City.
7.
  - a. Civil penalties will be waived by the Director or will be reimbursed to the payer by the Director, with the concurrence of the Administrative Services Director, under the following documented circumstances:
    - i. The notice and order were issued in error; or
    - ii. The civil penalties were assessed in error; or
    - iii. Notice failed to reach the property owner due to unusual circumstances.
  - b. Civil penalties accrued under subsection (D)(1) of this section will be reduced by the Director to 20 percent of accrued penalties if voluntary compliance is achieved and the City is reimbursed its reasonable staff and professional costs incurred in enforcing the notice and order.

**E. Abatement.**

1. All public nuisances are subject to abatement under this subchapter.
2. **Imminent Nuisance and Summary Abatement.** If a condition, substance, act or nuisance exists which causes a condition, the continued existence of which constitutes an immediate and emergent threat to the public health, safety or welfare or to the environment, the City may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for the abatement, shall be given to the person responsible for the property and the violation as soon as reasonably possible after the abatement. The Director shall make the determination of a condition, substance, act or other occurrence constituting an imminent nuisance requiring summary abatement. Costs, both direct and indirect, of the abatement may be assessed as provided in this chapter.
3. In the case of such unfit dwellings, buildings, structures, and premises or portions thereof, the Director, as an alternative to any other remedy provided in this subchapter, may abate such conditions by demolition, repair, removal, or securing the site and have abatement costs collected as taxes by the King County Treasury pursuant to SMC 20.30.775. If an occupied rental dwelling or its premises are declared unfit and required to be vacated by a notice and order, and the landlord fails to pay relocation assistance as set forth in RCW 59.18.085, the City shall advance relocation assistance funds to eligible tenants in accordance with RCW 59.18.085.

- F. Additional Enforcement Provisions.** The enforcement provisions of this section are not exclusive, and may be used in addition to other enforcement provisions authorized by the Shoreline Municipal Code or by State law, including filing for injunctive relief or filing of a civil action. (Ord. 669 § 1 (Exh. A), 2013; Ord. 631 § 1 (Exh. 1), 2012; Ord. 581 § 1 (Exh. 1), 2010; Ord. 466 § 2, 2007; Ord. 406 § 1, 2006; Ord. 391 § 4, 2005; Ord. 251 § 2(D), 2000; Ord. 238 Ch. III § 10(c), 2000. Formerly 20.30.740).

## **Chapter 20.40**

### **Zoning and Use Provisions**

Sections:

Subchapter 3. Index of Supplemental Use Criteria

20.40.230 Affordable housing.

#### **Subchapter 3.**

##### **Index of Supplemental Use Criteria**

##### **20.40.230 Affordable housing.**

- A. Provisions for density bonuses for the provision of affordable housing apply to all land use applications, except the following which are not eligible for density bonuses: (a) the construction of one single-family dwelling on one lot that can accommodate only one dwelling based upon the underlying zoning designation, (b) provisions for accessory dwelling units, and (c) projects which are limited by the critical areas regulations, Chapter 20.80 SMC, Critical Areas, or Shoreline Master Program, SMC Title 20, Division II.

## **Chapter 20.50**

### **General Development Standards**

Sections:

Subchapter 1. Dimensions and Density for Development

20.50.040 Setbacks – Designation and measurement.

Subchapter 5. Tree Conservation, Land Clearing and Site Grading Standards

20.50.310 Exemptions from permit.

20.50.320 Specific activities subject to the provisions of this subchapter.

20.50.330 Project review and approval.

20.50.350 Development standards for clearing activities.

20.50.360 Tree replacement and site restoration.

## **Subchapter 1.**

### **Dimensions and Density for Development**

#### **20.50.040 Setbacks – Designation and measurement.**

- F. **Allowance for Optional Aggregate Setback.** For lots with unusual geometry, flag lots with undesignated setbacks, or site conditions, such as critical areas, an existing cluster of significant trees, or other unique natural or historic features that should be preserved without disturbance, the City may reduce the individual required setbacks, however, the total of setbacks shall be no less than the sum of the minimum front yard, rear yard, and side yards setbacks. In order to exercise this option, the City must determine that a public benefit is gained by relaxing any setback standard. The following criteria shall apply:
1. No rear or side yard setback shall be less than five feet.
  2. The front yard setback adjacent to street shall be no less than 15 feet in R-4 and R-6 and 10 feet in all other zones. (See Exception 20.50.070(1).)

## Subchapter 5.

### Tree Conservation, Land Clearing and Site Grading Standards

#### 20.50.310 Exemptions from permit.

- A. **Complete Exemptions.** The following activities are exempt from the provisions of this subchapter and do not require a permit:
1. Emergency situation on private property involving danger to life or property or substantial fire hazards.
    - a. **Statement of Purpose.** Retention of significant trees and vegetation is necessary in order to utilize natural systems to control surface water runoff, reduce erosion and associated water quality impacts, reduce the risk of floods and landslides, maintain fish and wildlife habitat and preserve the City's natural, wooded character. Nevertheless, when certain trees become unstable or damaged, they may constitute a hazard requiring cutting in whole or part. Therefore, it is the purpose of this section to provide a reasonable and effective mechanism to minimize the risk to human health and property while preventing needless loss of healthy, significant trees and vegetation, especially in critical areas and their buffers.
    - b. For purposes of this section, "Director" means the Director of the Department and his or her designee.
    - c. In addition to other exemptions of SMC 20.50.290 through 20.50.370, a request for the cutting of any tree that is an active and imminent hazard such as tree limbs or trunks that are demonstrably cracked, leaning toward overhead utility lines or structures, or are uprooted by flooding, heavy winds or storm events. After the tree removal, the City will need photographic proof or other documentation and the appropriate application approval, if any. The City retains the right to dispute the emergency and require that the party obtain a clearing permit and/or require that replacement trees be replanted as mitigation.
  2. Removal of trees and/or ground cover by the City and/or utility provider in situations involving immediate danger to life or property, substantial fire hazards, or interruption of services provided by a utility. The City retains the right to dispute the emergency and require that the party obtain a clearing permit and/or require that replacement trees be replanted as mitigation.
  3. Installation and regular maintenance of public utilities, under direction of the Director, except substation construction and installation or construction of utilities in parks or environmentally critical areas.
  4. Cemetery graves involving less than 50 cubic yards of excavation, and related fill per each cemetery plot.
  5. Removal of trees from property zoned NB, CB, MB and TC-1, 2 and 3, and MUR-70' unless within a critical area of critical area buffer.
  6. Removal and restoration of vegetation within critical areas or their buffers consistent with the provisions of SMC 20.80.030(E) or removal of trees consistent with SMC 20.80.030(G) unless a permit is specifically noted under SMC 20.80.030(E).
- B. **Partial Exemptions.** With the exception of the general requirements listed in SMC 20.50.300, the following are exempt from the provisions of this subchapter, provided the development activity does not occur in a critical area or critical area buffer. For those exemptions that refer to size or number, the thresholds are cumulative during a 36-month period for any given parcel:
1. The removal of up to a maximum of six significant trees (excluding trees greater than 30 inches DBH per tree) in accordance with Table 20.50.310(B)(1) (see Chapter 20.20 SMC, Definitions).

**Table 20.50.310(B)(1) – Exempt Trees**

Lot size in square feet	Number of trees
Up to 7,200	3
7,201 to 14,400	4
14,401 to 21,780	5
21,781 and above	6

2. The removal of any tree greater than 30 inches DBH, or exceeding the numbers of trees specified in the table above, shall require a clearing and grading permit (SMC 20.50.320 through 20.50.370).
3. Landscape maintenance and alterations on any property that involves the clearing of less than 3,000 square feet, or less than 1,500 square feet if located in a special drainage area, provided the tree removal threshold listed above is not exceeded. (Ord. 706 § 1 (Exh. A), 2015; Ord. 695 § 1 (Exh. A), 2014; Ord. 640 § 1 (Exh. A), 2012; Ord. 581 § 1 (Exh. 1), 2010; Ord. 560 § 4 (Exh. A), 2009; Ord. 531 § 1 (Exh. 1), 2009; Ord. 434 § 1, 2006; Ord. 398 § 1, 2006; Ord. 238 Ch. V § 5(C), 2000).

**20.50.320 Specific activities subject to the provisions of this subchapter.**

All activities listed below must comply with the provisions of this subchapter. For those exemptions that refer to size or number, the thresholds are cumulative during a 36-month period for any given parcel:

- A. The construction of new residential, commercial, institutional, or industrial structures or additions.
- B. Earthwork of 50 cubic yards or more. This means any activity which moves 50 cubic yards of earth, whether the material is excavated or filled and whether the material is brought into the site, removed from the site, or moved around on the site.
- C. Clearing of 3,000 square feet of land area or more or 1,500 square feet or more if located in a special drainage area.
- D. Removal of more than six significant trees from any property.
- E. Any clearing, grading, or other land disturbing activity within a critical area or buffer of a critical area unless otherwise exempt from the provisions of this subchapter in SMC 20.50.310.
- F. Any change of the existing grade by four feet or more.
- G. Repealed by Ord. 640.
- H. Any land surface modification not specifically exempted from the provisions of this subchapter.
- I. Development that creates new, replaced or a total of new plus replaced impervious surfaces over 1,500 square feet in size, or 500 square feet in size if located in a landslide hazard area or special drainage area.
- J. Any construction of public drainage facilities to be owned or operated by the City.
- K. Any construction involving installation of private storm drainage pipes 12 inches in diameter or larger.
- L. Any modification of or construction which affects a stormwater quantity or quality control system. (Does not include maintenance or repair to the original condition.)
- M. Applicants for forest practice permits (Class IV – general permit) issued by the Washington State Department of Natural Resources (DNR) for the conversion of forested sites to developed sites are also required to obtain a clearing and grading permit. For all other forest practice permits (Class II, III, IV – special permit) issued by DNR for the purpose of commercial timber operations, no development permits will be issued for six years following tree removal. (Ord. 640 § 1 (Exh. A), 2012; Ord. 531 § 1 (Exh. 1), 2009; Ord. 398 § 1, 2006; Ord. 238

Ch. V § 5(D), 2000).

**20.50.330 Project review and approval.**

- A. Review Criteria. The Director shall review the application and approve the permit, or approve the permit with conditions; provided, that the application demonstrates compliance with the criteria below.
1. The proposal complies with SMC 20.50.340 through 20.50.370, or has been granted a deviation from the Engineering Development Manual.
  2. The proposal complies with all standards and requirements for the underlying permit.
  3. If the project is located in a critical area or buffer, or has the potential to impact a critical area, the project must comply with the critical areas regulations, Chapter 20.80 SMC, or Shoreline Master Program, SMC Title 20, Division II.
  4. The project complies with all requirements of the Engineering Development Manual and SMC 13.10.200, Surface Water Management Code and adopted standards.
  5. All required financial guarantees or other assurance devices are posted with the City.
- B. Professional Evaluation. In determining whether a tree removal and/or clearing is to be approved or conditioned, the Director may require the submittal of a professional evaluation and/or a tree protection plan prepared by a certified arborist at the applicant's expense, where the Director deems such services necessary to demonstrate compliance with the standards and guidelines of this subchapter. Third party review of plans, if required, shall also be at the applicant's expense. The Director shall have the sole authority to determine whether the professional evaluation submitted by the applicant is adequate, the evaluator is qualified and acceptable to the City, and whether third party review of plans is necessary. Required professional evaluation(s) and services may include:
1. Providing a written evaluation of the anticipated effects of proposed construction on the viability of trees on a site;
  2. Providing a hazardous tree assessment;
  3. Developing plans for, supervising, and/or monitoring implementation of any required tree protection or replacement measures; and/or
  4. Conducting a post-construction site inspection and evaluation.
- C. Conditions of Approval. The Director may specify conditions for work at any stage of the application or project as he/she deems necessary to ensure the proposal's compliance with requirements of this subchapter, critical area regulations, Chapter 20.80 SMC, or Shoreline Master Program, SMC Title 20, Division II, the Engineering Development Manual, the adopted stormwater management regulations, and any other section of the Shoreline Development Code, or to protect public or private property. These conditions may include, but are not limited to, hours or seasons within which work may be conducted, or specific work methods.
- D. Designation of Protected Trees.
1. For the following areas, the retention and planting plan and any application and permit plans shall show all trees designated for protection: areas designated as "protected trees," "native growth protection areas," "critical areas," "critical area buffers," or such other designation as may be approved by the Director. Protected vegetation, including protected trees, shall not be modified, harmed or removed except as provided in this subchapter.
  2. The Director may require that protected trees be permanently preserved within a tract, easement or other permanent protective mechanism. When required, the location, purpose, and limitation of these protected areas shall be shown on the face of the deed, plat, binding site plan, or similar document and

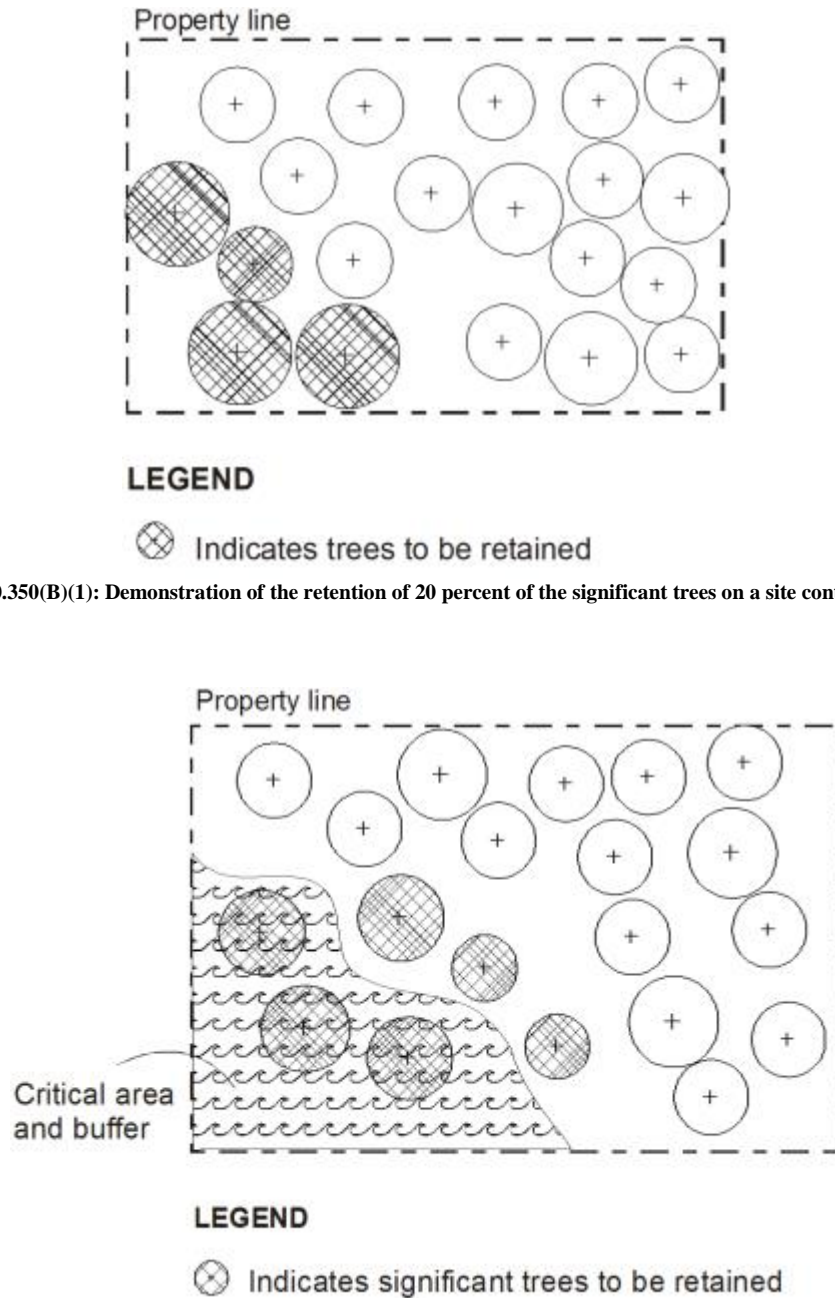


shall be recorded with the King County Recorder's Office or its successor. The recorded document shall include the requirement that the protected areas shall not be removed, amended or modified without the written approval of the City.

- E. Preconstruction Meeting Required. Prior to the commencement of any permitted clearing and grading activity, a preconstruction meeting shall be held on-site with the permittee and appropriate City staff. The project site shall be marked in the field as follows:
1. The extent of clearing and grading to occur;
  2. Delineation and protection with clearing limit fencing of any critical areas and critical area buffers;
  3. Trees to be removed and retained; and
  4. Property lines. (Ord. 631 § 1 (Exh. 1), 2012; Ord. 531 § 1 (Exh. 1), 2009; Ord. 398 § 1, 2006; Ord. 238 Ch. V § 5(E), 2000).

**20.50.350 Development standards for clearing activities.**

- A. No trees or ground cover shall be removed from critical area or buffer unless the proposed activity is consistent with the critical area standards.
- B. Minimum Retention Requirements. All proposed development activities that are not exempt from the provisions of this subchapter shall meet the following:
1. At least 20 percent of the significant trees on a given site shall be retained, excluding critical areas, and critical area buffers, or
  2. At least 30 percent of the significant trees on a given site (which may include critical areas and critical area buffers) shall be retained.
  3. Tree protection measures ensuring the preservation of all trees identified for retention on approved site plans shall be guaranteed during development through the posting of a performance bond equal to the value of the installation and maintenance of those protection measures.
  4. The minimum amount of trees to be retained cannot be removed for a period of 36 months and shall be guaranteed through an approved maintenance agreement.
  5. The Director may require the retention of additional trees to meet the stated purpose and intent of this title, as required by the critical areas regulations, Chapter 20.80 SMC, or Shoreline Master Program, SMC Title 20, Division II, or as site-specific conditions demand using SEPA substantive authority.



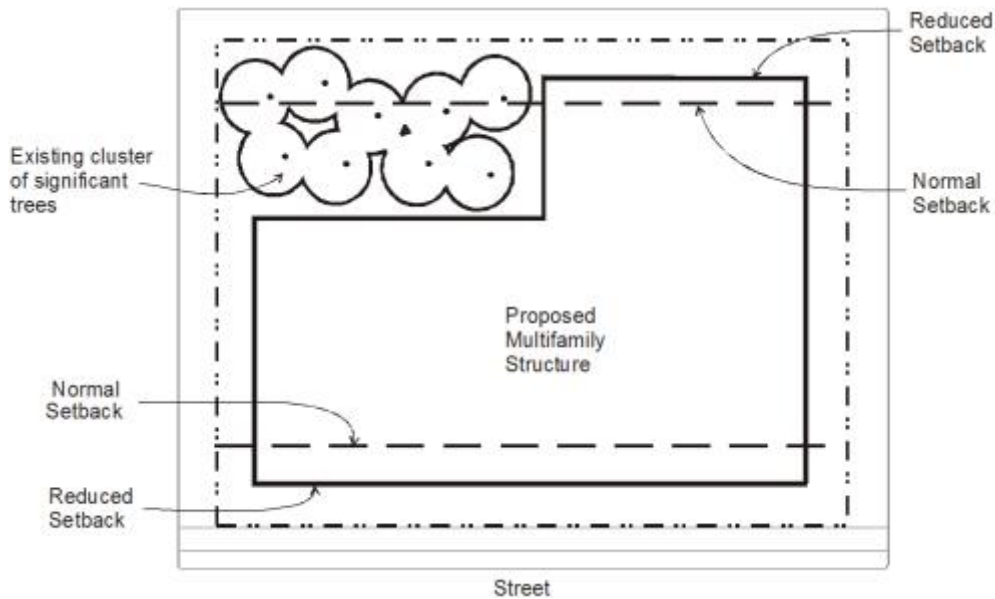
**Figure 20.50.350(B)(1): Demonstration of the retention of 20 percent of the significant trees on a site containing no critical areas.**

**Figure 20.50.350(B)(2): Demonstration of the retention of 30 percent of the significant trees on a site containing a critical area.**

*Exception 20.50.350(B):*

1. *The Director may allow a reduction in the minimum significant tree retention percentage to facilitate preservation of a greater number of smaller trees, a cluster or grove of trees, contiguous perimeter buffers, distinctive skyline features, or based on the City's concurrence with a written recommendation of an arborist certified by the International Society of Arboriculture and approved by the City that retention of the minimum percentage of trees is not advisable on an individual site.*
2. *In addition, the Director may allow a reduction in the minimum significant tree retention percentage if all of the following criteria are satisfied: The exception is necessary because:*

- *There are special circumstances related to the size, shape, topography, location or surroundings of the subject property.*
  - *Strict compliance with the provisions of this Code may jeopardize reasonable use of property.*
  - *Proposed vegetation removal, replacement, and any mitigation measures are consistent with the purpose and intent of the regulations.*
  - *The granting of the exception or standard reduction will not be detrimental to the public welfare or injurious to other property in the vicinity.*
3. *If an exception is granted to this standard, the applicant shall still be required to meet the basic tree replacement standards identified in SMC 20.50.360 for all significant trees removed beyond the minimum allowed per parcel without replacement and up to the maximum that would ordinarily be allowed under SMC 20.50.350(B).*
4. *In addition, the applicant shall be required to plant four trees for each significant tree removed that would otherwise count towards the minimum retention percentage. Trees replaced under this provision shall be at least 12 feet high for conifers and three inches in caliper if otherwise. This provision may be waived by the Director for restoration enhancement projects conducted under an approved vegetation management plan.*
- C. **Incentives for Higher Levels of Tree Protection.** The Director may grant reductions or adjustments to other site development standards if the protection levels identified in subsection (B) of this section are exceeded. On a case-by-case review, the Director shall determine the balance between tree protection that exceeds the established minimum percentage and variations to site development requirements. If the Director grants adjustments or reductions to site development standards under this provision, then tree protection requirements shall be recorded on the face of the plat, as a notice to title, or on some other legal document that runs with the property. Adjustments that may be considered are:
1. Reductions or variations of the area, width, or composition of required open space and/or landscaping;
  2. Variations in parking lot design and/or any access driveway requirements;
  3. Variations in building setback requirements;
  4. Variations of grading and stormwater requirements.

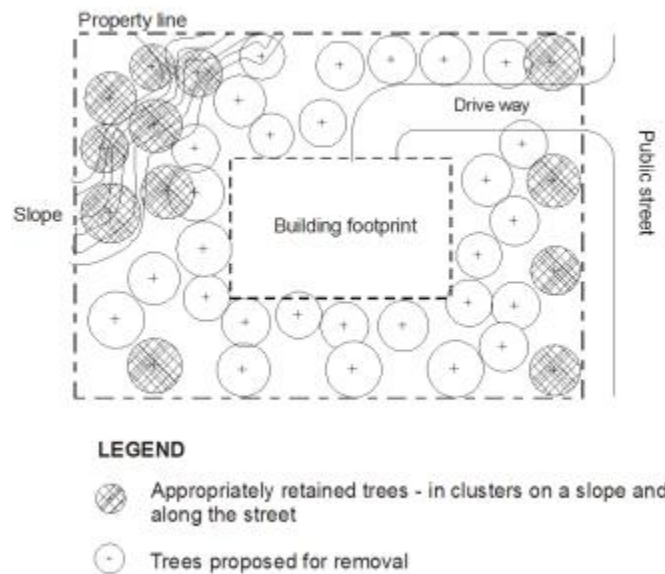


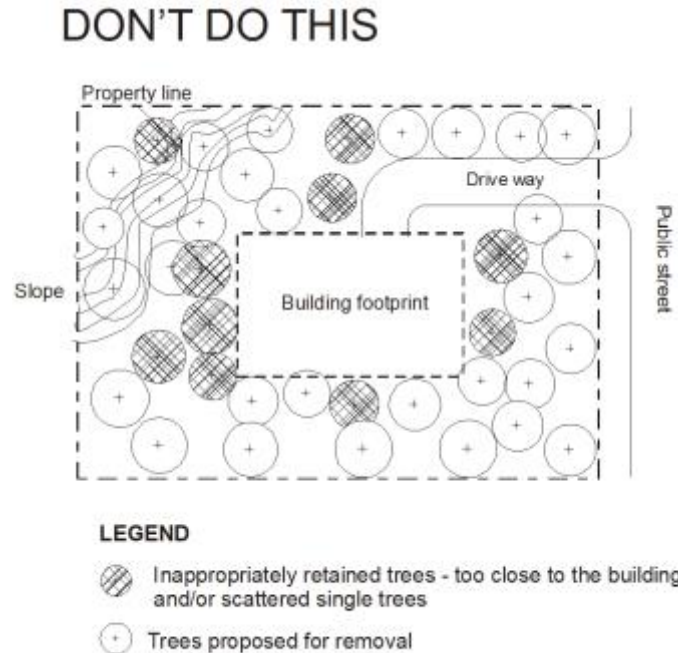
**Figure 20.50.350(C): Example of aggregate setback to preserve a cluster of significant trees.**

- D. Site Design. Site improvements shall be designed and constructed to meet the following:
1. Trees should be protected within vegetated islands and stands rather than as individual, isolated trees scattered throughout the site.
  2. Site improvements shall be designed to give priority to protection of trees with the following characteristics, functions, or location:
    - Existing stands of healthy trees that have a reasonable chance of survival once the site is developed, are well shaped to withstand the wind and maintain stability over the long term, and will not pose a threat to life or property.
    - Trees which exceed 50 feet in height.
    - Trees and tree clusters which form a continuous canopy.
    - Trees that create a distinctive skyline feature.
    - Trees that have a screening function or provide relief from glare, blight, commercial or industrial harshness.
    - Trees providing habitat value, particularly riparian habitat.
    - Trees within the required yard setbacks or around the perimeter of the proposed development.
    - Trees having a significant land stability function.
    - Trees adjacent to public parks, open space, and critical area buffers.
    - Trees having a significant water-retention function.
  3. Building footprints, parking areas, roadways, utility corridors and other structures shall be designed and located with a consideration of tree protection opportunities.
  4. The project grading plans shall accommodate existing trees and avoid alteration to grades around existing significant trees to be retained.

5. Required open space and recreational space shall be designed and located to protect existing stands of trees.
6. The site design and landscape plans shall provide suitable locations and adequate area for replacement trees as required in SMC 20.50.360.
7. In considering trees for protection, the applicant shall avoid selecting trees that may become hazardous because of wind gusts, including trees adjacent to utility corridors where falling trees may cause power outages or other damage. Remaining trees may be susceptible to blow downs because of loss of a buffer from other trees, grade changes affecting the tree health and stability and/or the presence of buildings in close proximity.
8. If significant trees have been removed from a closed, forested situation, an adequate buffer of smaller trees shall be retained or planted on the fringe of such significant trees as determined by a certified arborist.
9. All trees located outside of identified building footprints and driveways and at least 10 feet from proposed structures shall be considered as eligible for preservation. However, all significant trees on a site shall be considered when calculating the minimum retention percentage.

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**Figure 20.50.350(D): Example of the application of tree retention site design standards. Appropriate retention of a cluster of trees on a slope and frontage trees are shown above. Inappropriate retention of scattered single trees and trees near structures are shown below.**

- E. Cutting and Pruning of Protected Trees. Trees protected under the provisions of this section shall not be topped. Pruning and maintenance of protected trees shall be consistent with best management practices in the field of arboriculture, such as the American National Standard for Tree Care Operations – Tree, Shrub, and Other Wood Plant Maintenance- Standard Practices (ANSI A300) or similar, and further the long-term health of the tree. Excessive pruning, including topping, stripping, or imbalances, shall not be allowed unless necessary to protect life and property. Protected trees may be pruned to enhance views using methods such as windowing, interlimbing, or skirting up, when completed by a qualified professional arborist and consistent with best management practices.
- F. Landmark Trees. Trees which have been designated as landmark trees by the City of Shoreline because they are 30 inches or larger in diameter or particularly impressive or unusual due to species, size, shape, age, historical significance and/or are an outstanding row or group of trees, have become a landmark to the City of Shoreline or are considered specimens of their species shall not be removed unless the applicant meets the exception requirements of subsection (B) of this section. The Director shall establish criteria and procedures for the designation of landmark trees. (Ord. 640 § 1 (Exh. A), 2012; Ord. 406 § 1, 2006; Ord. 398 § 1, 2006; Ord. 238 Ch. V § 5(G), 2000).

#### **20.50.360 Tree replacement and site restoration.**

- A. Plans Required. Prior to any tree removal, the applicant shall demonstrate through a clearing and grading plan, tree retention and planting plan, landscape plan, critical area report, mitigation or restoration plans, or other plans acceptable to the Director that tree replacement will meet the minimum standards of this section. Plans shall be prepared by a qualified person or persons at the applicant's expense. Third party review of plans, if required, shall be at the applicant's expense.
- B. The City may require the applicant to relocate or replace trees, shrubs, and ground covers, provide erosion control methods, hydroseed exposed slopes, or otherwise protect and restore the site as determined by the Director.
- C. Replacement Required. Trees removed under the partial exemption in SMC 20.50.310(B)(1) may be removed

per parcel with no replacement of trees required. Any significant tree proposed for removal beyond this limit should be replaced as follows:

1. One existing significant tree of eight inches in diameter at breast height for conifers or 12 inches in diameter at breast height for all others equals one new tree.
2. Each additional three inches in diameter at breast height equals one additional new tree, up to three trees per significant tree removed.
3. Minimum size requirements for trees replaced under this provision: deciduous trees shall be at least 1.5 inches in caliper and evergreens six feet in height.

*Exception 20.50.360(C):*

1. *No tree replacement is required when the tree is proposed for relocation to another suitable planting site; provided, that relocation complies with the standards of this section.*
  2. *The Director may allow a reduction in the minimum replacement trees required or off-site planting of replacement trees if all of the following criteria are satisfied:*
    - *There are special circumstances related to the size, shape, topography, location or surroundings of the subject property.*
    - *Strict compliance with the provisions of this Code may jeopardize reasonable use of property.*
    - *Proposed vegetation removal, replacement, and any mitigation measures are consistent with the purpose and intent of the regulations.*
    - *The granting of the exception or standard reduction will not be detrimental to the public welfare or injurious to other property in the vicinity.*
  3. *The Director may waive this provision for site restoration or enhancement projects conducted under an approved vegetation management plan.*
- D. The Director may require that a portion of the replacement trees be native species in order to restore or enhance the site to predevelopment character.
- E. The condition of replacement trees shall meet or exceed current American Nursery and Landscape Association or equivalent organization's standards for nursery stock.
- F. Replacement of removed trees with appropriate native trees at a ratio consistent with section C, or as determined by the Director based on recommendations in a critical area report, will be required in critical areas.
- G. The Director may consider smaller-sized replacement plants if the applicant can demonstrate that smaller plants are more suited to the species, site conditions, and to the purposes of this subchapter, and are planted in sufficient quantities to meet the intent of this subchapter.
- H. All required replacement trees and relocated trees shown on an approved permit shall be maintained in healthy condition by the property owner throughout the life of the project, unless otherwise approved by the Director in a subsequent permit.
- I. Where development activity has occurred that does not comply with the requirements of this subchapter, the requirements of any other section of the Shoreline Development Code, or approved permit conditions, the Director may require the site to be restored to as near preproject original condition as possible. Such restoration shall be determined by the Director and may include, but shall not be limited to, the following:
1. Filling, stabilizing and landscaping with vegetation similar to that which was removed, cut or filled;

2. Planting and maintenance of trees of a size and number that will reasonably assure survival and that replace functions and values of removed trees; and
  3. Reseeding and landscaping with vegetation similar to that which was removed, in areas without significant trees where bare ground exists.
- J. Significant trees which would otherwise be retained, but which were unlawfully removed or damaged or destroyed through some fault of the applicant or their representatives shall be replaced in a manner determined by the Director.
- K. **Performance Assurance.**
1. The Director may require a performance bond for tree replacement and site restoration permits to ensure the installation of replacement trees, and/or compliance with other landscaping requirements as identified on the approved site plans.
  2. A maintenance bond shall be required after the installation of required site improvements and prior to the issuance of a certificate of occupancy or finalization of permit and following required landscape installation or tree replacement. The maintenance bond and associated agreement shall be in place to ensure adequate maintenance and protection of retained trees and site improvements. The maintenance bond shall be for an amount not to exceed the estimated cost of maintenance and protection measures for a minimum of 36 months or as determined by the Director.
  3. The Director shall exempt individual single-family lots from a maintenance bond, except where a clearing violation has occurred or tree replacement is located within critical areas or critical area buffers.
- L. **Monitoring.** The Director may require submittal of periodic monitoring reports as necessary to ensure survival of replacement trees. The contents of the monitoring report shall be determined by the Director.
- M. **Discovery of Undocumented Critical Areas.** The Director may stop work authorized by a clearing and grading permit if previously undocumented critical areas are discovered on the site. The Director has the authority to require additional studies, plans and mitigations should previously undocumented critical areas be found on a site. (Ord. 640 § 1 (Exh. A), 2012; Ord. 406 § 1, 2006; Ord. 398 § 1, 2006; Ord. 299 § 1, 2002; Ord. 238 Ch. V § 5(H), 2000).